



DEVELOPMENT SERVICES DEPARTMENT
ENVIRONMENTAL COORDINATOR
450 110th Ave NE
BELLEVUE, WA 98009-9012

DETERMINATION OF NON-SIGNIFICANCE

PROPONENT: Li Yun

LOCATION OF PROPOSAL: 624 129th PI NE

DESCRIPTION OF PROPOSAL: Threshold determination for residential backyard landscape improvements adjacent to the West Tributary.

FILE NUMBERS: 19-102730-LO **PLANNER:** Peter Rosen

The Environmental Coordinator of the City of Bellevue has determined that this proposal does not have a probable significant adverse impact upon the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(C). This decision was made after the Bellevue Environmental Coordinator reviewed the completed environmental checklist and information filed with the Land Use Division of the Development Services Department. This information is available to the public on request.

- ☐ There is no comment period for this DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's office by 5:00 p.m. on _____.
- ☒ This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's Office by 5 p.m. on **4/9/2020**
- ☐ This DNS is issued under WAC 197-11-340(2) and is subject to a 14-day comment period from the date below. Comments must be submitted by 5 p.m. on _____. This DNS is also subject to appeal. A written appeal must be filed in the City Clerk's Office by 5:00 p.m. on _____.

This DNS may be withdrawn at any time if the proposal is modified so as to have significant adverse environmental impacts; if there is significant new information indicating a proposals probable significant adverse environmental impacts (unless a non-exempt license has been issued if the proposal is a private project); or if the DNS was procured by misrepresentation or lack of material disclosure.

Heidi Bedwell, Environmental Planning MGR for

Elizabeth Stead, Land Use Director and

Environmental Coordinator

3/26/2020

Date

OTHERS TO RECEIVE THIS DOCUMENT:

- ☒ State Department of Fish and Wildlife / Stewart.Reinbold@dfw.gov; Christa.Heller@dfw.wa.gov;
- ☒ Army Corps of Engineers Susan.M.Powell@nws02.usace.army.mil
- ☒ Attorney General ecyolyef@atg.wa.gov
- ☒ Muckleshoot Indian Tribe Karen.Walter@muckleshoot.nsn.us; Fisheries.fileroom@muckleshoot.nsn.us



**City of Bellevue
Development Services Department
Land Use Staff Report**

Proposal Name:	Li Backyard Landscaping
Proposal Address:	624 129th PI NE
Proposal Description:	Critical Areas Land Use Permit for residential backyard landscape improvements adjacent to the West Tributary, a Type F fish-bearing stream. The proposal would replace timber landscape walls with landscape bricks, grade to level the backyard, construct a footbridge, and enhance the stream buffer on the east and west sides of the creek.
File Number:	19-102730-LO
Applicant:	Li Yun
Decisions Included:	Critical Areas Land Use Permit (Process II. LUC 20.30P)
Planner:	Peter Rosen, Senior Environmental Planner
State Environmental Policy Act Threshold Determination:	Determination of Non-Significance <i>Heidi Bedwell, Environmental Planning MGR for</i> Elizabeth Stead, Environmental Coordinator Development Services Department
Director's Decision:	Approval with Conditions Michael A. Brennan, Director Development Services Department <i>Heidi Bedwell, Environmental Planning MGR for</i> Elizabeth Stead, Land Use Director

Application Date:	January 3, 2019
Notice of Application Publication Date:	January 24, 2019
Decision Publication Date:	March 26, 2020
Project Appeal Deadline:	April 9, 2020

For information on how to appeal a proposal, visit Development Services Center at City Hall or call (425) 452-6800. Appeal of the decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

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Attachments

1. Site Plan – Attached
2. Critical Areas Report – In File

I. Proposal Description

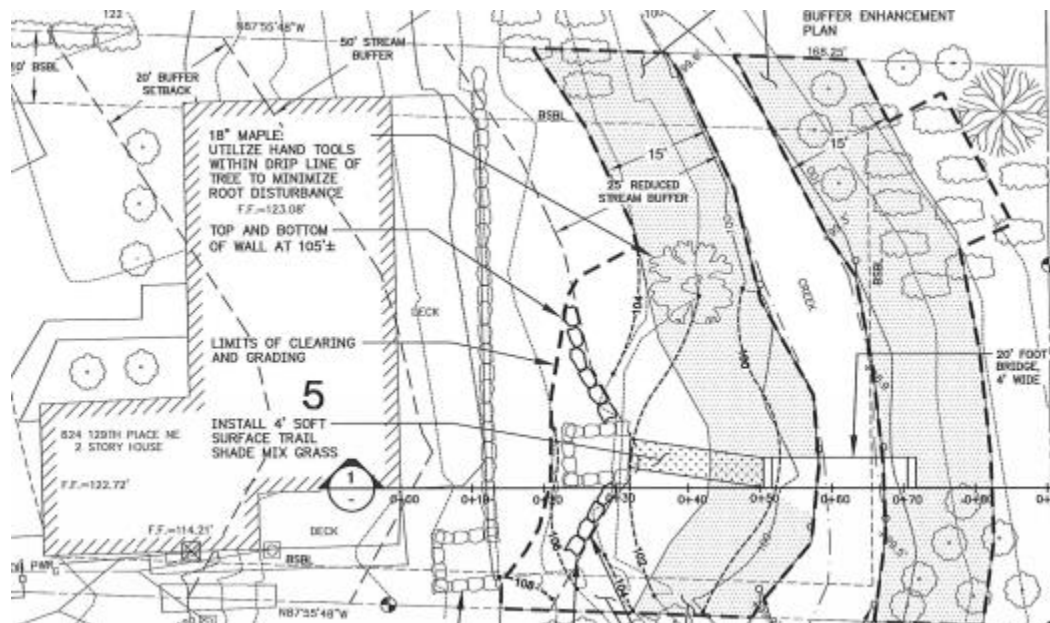
The applicant is requesting approval of a Critical Areas Land Use Permit for residential backyard landscape improvements adjacent to the West Tributary of Kelsey Creek, a Type-F fish-bearing stream. The proposal would replace timber landscape walls with landscape bricks, grade to level the backyard, construct a footbridge, and enhance the stream buffer (15-foot width) on both the east and west sides of the creek.

The backyard grading and landscape walls were installed without a permit (Enforcement Action: 18-116070-EA) and the subject permit is to retroactively approve the previous grading and landscape walls, with additional project elements including constructing a footbridge and planting enhancement of the stream buffer. The landscape walls previously installed within 25 feet of the creek would be removed and the buffer area regraded to the approximate original ground surface. A segment of the landscape wall encroaches into the 5-foot side yard structure setback along the south property line. The applicant proposes to reduce the height of this wall segment to a maximum of 30-inches above existing grade.

The proposal also includes a 4-foot wide soft-surface trail from the lower rockery to the proposed footbridge.

A Critical Areas Land Use Permit is required per LUC 20.25H.015.B because the proposal involves disturbance and modifications within the West Tributary stream buffer. A Critical Area Report is required to modify the stream buffer code standards and to allow for the expansion of backyard improvements within the stream buffer. The Critical Areas Report must demonstrate that the proposal would result in critical area functions and values that are at least as protective as with the application of the regulations and standards of the code, LUC 20.25H.230.

Figure 1 – Site Plan



II. Site Description, Zoning, Land Use and Critical Areas

A. Site Description

The project site is located at 624 129th PI NE in the Wilburton/NE 8th St subarea of the Comprehensive Plan. The site is 13,200 SF in size and is currently developed with a single family home. The West Tributary of Kelsey Creek bisects the backyard, eastern portion of the site. According to the Washington Department of Fish & Wildlife (WDFW); Chinook salmon, Coho salmon and Steelhead trout use the West Tributary. The FEMA 100-year floodplain elevation is 97 feet and contained below the ordinary high water mark (OHWM).

Vegetation on the property is typical single-family home landscaping; with a flat front yard consisting of lawn, ornamental shrubs, and mature conifer trees. The backyard is entirely within the 50-foot stream buffer. The backyard slopes (approximately 18%) from the back of the house to the creek, with a steeper slope area in the upper backyard closer toward the house. There is a Big-leaf Maple in the back yard with understory of grasses and typical weed species. The stream buffer area on the east side of the creek is undeveloped and dominated by lawn in the center portion and shrubs and smaller trees in the northern and southern parts of the buffer. The north portion of the buffer is dominated by invasive Himalayan blackberry.

The previous, unpermitted landscape improvements included replacing a rotting timber retaining wall in the upper backyard area with a landscape brick wall. In addition, 2 landscape brick walls were added closer toward the creek, with the lower wall approximately 10 feet from the OHWM of the stream. The maximum height of the landscape brick wall is 42 inches. The yard was graded to create a gentler slope, the result was a net zero cut and fill. No significant trees were removed for the landscape wall construction and grading.

Figure 2 – Existing Site Conditions and Survey

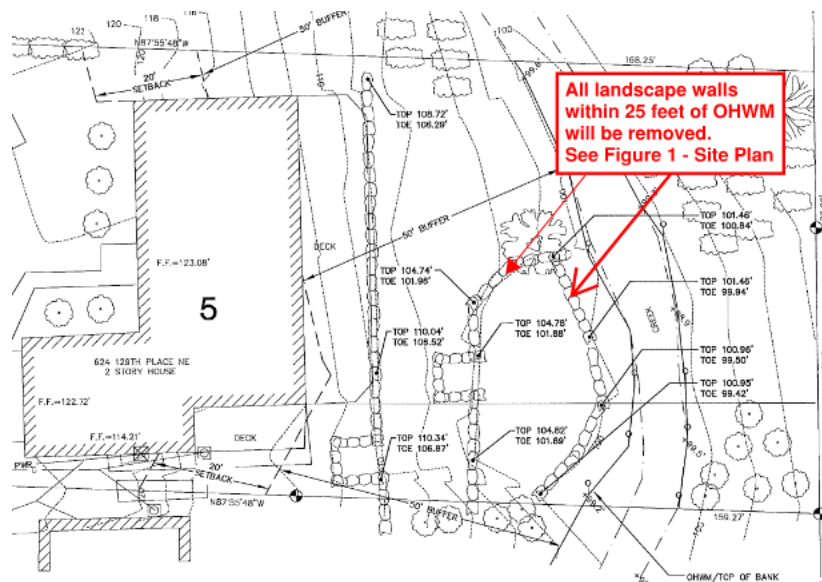


Figure 3 – Site Conditions Prior to Landscape Activities



Figure 4 – Site Conditions After Installation of Walls and Grading Activities



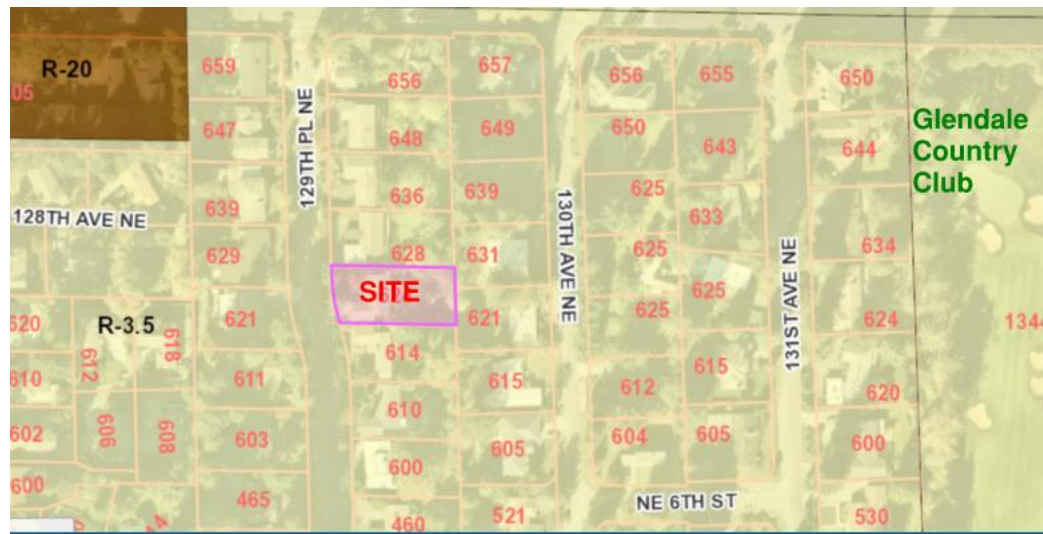
B. Zoning

The property is zoned R-3.5, a single-family residential zoning district. The surrounding area is zoned R-3.5 and developed with single family residences. There is R-20 multi-family zoning to the northwest of the site fronting on NE 8th St. The Glendale Country Club and golf course is approximately 650 feet to the east of the subject site. See Figure 5 – Zoning Map.

C. Land Use

The Comprehensive Plan designation for this site and the surrounding area is Single-Family Medium Density (SF-M). The proposed backyard improvements support the single family residential use and are consistent with the Land Use designation.

Figure 5 – Zoning Map



D. Critical Areas Functions and Values

i. Streams and Riparian Areas – LUC 20.25H.075

a. Stream and Riparian Area Functions: Most of the elements necessary for a healthy aquatic environment rely on processes sustained by dynamic interaction between the stream and the adjacent riparian area (Naiman et al., 1992). Riparian vegetation in floodplains and along stream banks provides a buffer to help mitigate the impacts of urbanization (Finkenbine et al., 2000 in Bolton and Shellberg, 2001). Riparian areas support healthy stream conditions.

Riparian vegetation, particularly forested riparian areas, affect water temperature by providing shade to reduce solar exposure and regulate high ambient air temperatures, slowing or preventing increases in water temperature (Brazier and Brown, 1973; Corbett and Lynch, 1985).

Upland and wetland riparian areas retain sediments, nutrients, pesticides, pathogens, and other pollutants that may be present in runoff, protecting water quality in streams (Ecology, 2001; City of Portland 2001). The roots of riparian plants also hold soil and prevent erosion and sedimentation that may affect spawning success or other behaviors, such as feeding.

Both upland and wetland riparian areas reduce the effects of flood flows. Riparian areas and wetlands reduce and desynchronize peak crests and flow rates of floods (Novitzki, 1979; Verry and Boelter, 1979 in Mitsch and Gosselink, 1993). Upland and wetland areas can infiltrate floodflows, which in turn, are released to the stream as baseflow

Stream riparian areas, or buffers, can be a significant factor in determining the quality of wildlife habitat. For example, buffers comprised of native vegetation with multi-canopy structure, snags, and down logs provide habitat for the greatest range of wildlife species (McMillan, 2000). Vegetated riparian areas also provide a source of large woody debris that helps create and maintain diverse in-stream habitat, as well as create woody debris jams that store sediments and moderate flood velocities.

Sparsely vegetated or vegetated buffers with non-native species may not perform the needed functions of stream buffers. In cases where the buffer is not well vegetated, it is necessary to either increase the buffer width or require that the standard buffer width be restored or re-vegetated (May 2003). Until the newly planted buffer is established the near term goals for buffer functions may not be attained.

Riparian areas often have shallow groundwater tables, as well as areas where groundwater and surface waters interact. Groundwater flows out of riparian wetlands, seeps, and springs to support stream baseflows. Surface water that flows into riparian areas during floods or as direct precipitation infiltrates into groundwater in riparian areas and is stored for later discharge to the stream (Ecology, 2001; City of Portland, 2001).

III. Consistency with Land Use Code Requirements

A. Zoning District Dimensional Requirements:

The site is located in the R-3.5 zoning district. The plans demonstrate conformance with zoning dimensional standards. A segment of the installed landscape wall encroaches into the 5-foot side yard structure setback along the south property line. The applicant proposes to reduce the height of this wall segment to a maximum of 30-inches above existing grade. Conformance with all zoning requirements will be verified as part of the required Clearing and Grading Permit review. **See Section X for condition of approval regarding Clearing and Grading Permit Required.**

B. Critical Areas Requirements LUC 20.25H:

The City of Bellevue Land Use Code Critical Areas Overlay District (LUC 20.25H) establishes performance standards and procedures that apply to development on any site which contains in whole or in part any portion designated as critical area, critical area buffer or structure setback from a critical area or buffer.

The proposed landscape improvements (landscape walls, grading) are not an allowed use within the stream buffer and the application includes a Critical Areas Report to modify the standards and to demonstrate that the proposal would result in equivalent or better protection of critical areas functions and values than would result from the application of the standard requirements.

The proposed footbridge and trail are considered allowed uses within critical areas/buffers provided the applicable performance standards are met (LUC 20.25H.055.B).

i. Consistency with LUC 20.25H.055.C.3.

3. Performance Standards for Specific Uses or Development. In the event of a conflict between the generally applicable performance standards and specific standards, those more protective of critical area functions and values shall prevail.

e. New or Expanded Bridges and Culverts. New culverts shall be designed in accordance with the Washington State Department of Fish and Wildlife "Water Crossing Design Guidelines" now or as hereafter amended. Culvert expansions shall be considered new culverts and be required to be designed in accordance with "Water Crossing Design Guidelines" now or as hereafter amended when the expansion is associated with a project increasing vehicular capacity and (i) there are fish present downstream; (ii) there is potential fish habitat upstream; and (iii) the benefits of so designing the culvert are substantial when compared to expanding the culvert based on its then-existing design.

Response: The footbridge is proposed to enable the property owner to safely cross the stream to maintain his property on the east side of the stream. The bridge has been sited to avoid removal of woody vegetation and to minimize fill within the stream buffer.

The footbridge has been designed so the concrete abutments are beyond the ordinary high water mark (OHWM) of the stream and the bottom bridge beam would be 1-foot above the OHWM of the stream to provide sufficient clearance so there are no adverse impacts to flood storage capacity, or alteration to peak flows, duration, or volume of flows.

The proposed footbridge is 4 feet wide by 20 feet long and constructed with 2" x 6" wood planks for decking. To avoid water quality impacts from leaching of wood preservatives, the wood planks for the bridge decking shall be a non-toxic wood product approved for use in aquatic environments. **See Section X for condition of approval regarding to Footbridge Decking Materials.**

The bridge will require Hydraulic Project Approval (HPA) from the Washington State Department of Fish and Wildlife (WDFW), to ensure the bridge is designed in accordance with the WDFW "Water Crossing Design Guidelines." The applicant shall provide a copy of the HPA prior to issuance of construction permits. **See Section X for a condition of approval regarding WDFW Permit Approval.**

f. Private Nonmotorized Trails. New nonmotorized trails within the critical area or critical area buffer are limited to those accessing single-family residential moorage or serving nonresidential uses, multifamily residential uses and more than one single-family lot. Private nonmotorized trails shall comply with the performance standards for trails in subsection C.3.g of this section. Nothing in this section prohibits the creation of a soft surface nonmotorized trail in a critical area buffer on a single-family lot for use of the residents of that lot. Such trail shall not exceed four feet in width and shall not

involve the removal of any significant trees or bank-stabilizing roots. In stream and wetland buffers, trails shall not be generally parallel to the stream or wetland edge, shall be located in the outer 25 percent of the buffer, and shall be located no closer than 25 feet from the upland edge of the wetland or stream. Any clearing of brush or vegetation shall be the minimum necessary and shall be with hand tools only.

Response: The proposal includes a 4-foot wide, soft-surface (lawn) trail through the stream buffer, connecting the lower landscape wall stairs to the footbridge. The proposed trail is perpendicular, not parallel to the stream. Installation of the trail would not require removal of any significant trees.

ii. Consistency with LUC 20.25H.080.A

A. General.

Development on sites with a type S or F stream or associated critical area buffer shall incorporate the following performance standards in design of the development, as applicable:

1. Lights shall be directed away from the stream.

Response: The proposal does not include lighting.

2. Activity that generates noise such as parking lots, generators, and residential uses, shall be located away from the stream, or any noise shall be minimized through use of design and insulation techniques.

Response: The proposed project does not include noise-generating activities such as parking lots or generators. The proposal does not change the existing residential use and therefore would not result in an increase in noise generating activity.

3. Toxic runoff from new impervious area shall be routed away from the stream.

Response: The proposed landscape improvements would not add new impervious surface area that would generate toxic runoff. The grading of the backyard will reduce the slope gradient and runoff velocity, thereby allowing runoff to infiltrate and sediments to settle out in the buffer rather than entering the stream.

4. Treated water may be allowed to enter the stream critical area buffer.

Response: Not applicable. The proposal will not generate treated water.

5. The outer edge of the stream critical area buffer shall be planted with dense vegetation to limit pet or human use. Preference shall be given to native species.

Response: The stream buffer encumbers the entire backyard and planting of the outer buffer would be distant from the stream and interfere with the existing,

continued use of the backyard by residents. The proposal includes enhancing a 15-foot width of the stream buffer adjacent to the creek. Planting adjacent to the creek will provide the greatest ecological benefits; providing shade and organic inputs. The dense streamside planting will limit pets and humans from entering the stream. **See Section X for a condition of approval regarding Mitigation Planting Plan.**

6. **Use of pesticides, insecticides and fertilizers within 150 feet of the edge of the stream critical area buffer shall be in accordance with the City of Bellevue's "Environmental Best Management Practices", now or as hereafter amended.**

Response: The entire backyard is within 150 feet of the edge of the stream channel. It is required that all use of pesticides, insecticides, herbicides and fertilizers be in accordance with in the City of Bellevue's "Environmental Best Management Practices" and approved for use adjacent to aquatic environments. **See Section X for condition of approval regarding Environmental Best Management Practices.**

IV. Public Notice and Comment

Application Date:	January 3, 2019
Public Notice (500 feet):	January 24, 2019
Minimum Comment Period:	February 7, 2019

The Notice of Application for this project was published in the City of Bellevue weekly permit bulletin on January 24, 2019. It was mailed to property owners within 500 feet of the project site.

Comments were received from the Muckleshoot Indian Tribe. The comments primarily regarded the design of the footbridge and that it is required to meet WDFW's Hydraulic Code bridge requirements, which requires at least three feet of clearance between the bottom of the bridge structure and the water surface at the 100-year peak flow unless engineering justification shows a lower clearance will allow the free passage of anticipated debris. The applicant responded to the Muckleshoot Tribe comments in their October 15, 2019 response to comments letter. The response includes a justification for the proposed, reduced bridge clearance (1 foot above the OHWM) from the project engineer. The bridge will require Hydraulic Project Approval (HPA) from WDFW to ensure the bridge is designed in accordance with the WDFW standards. **See Section X for condition of approval regarding WDFW Permit Approval.**

V. Summary of Technical Reviews

B. Clearing and Grading:

The Clearing and Grading Division of the Development Services Department has reviewed the site grading for compliance with Clearing and Grading codes and standards. Due to the proximity to the stream, no clearing and grading activity may occur during the rainy season, which is defined as October 1 through April 30 without written authorization of the Development Services Department. **See Section X for condition of approval regarding Rainy Season Restrictions.**

Clearing and Grading review requires a condition that all fill and block walls placed within the 25-foot stream buffer must be removed and the area must then be regraded to the previously existing grade. **See Section X for condition of approval regarding to Fill and Walls in Critical Area Buffer.**

VI. State Environmental Policy Act (SEPA)

The environmental review indicates no probability of significant adverse environmental impacts occurring as a result of the proposal. The Environmental Checklist submitted with the application adequately discloses expected environmental impacts associated with the project. The City codes and requirements, including the Clear and Grade Code, Utility Code, Land Use Code, Noise Ordinance, Building Code and other construction codes are expected to mitigate potential environmental impacts. Therefore, issuance of a Determination of Non-Significance (DNS) is the appropriate threshold determination under the State Environmental Policy Act (SEPA) requirements.

A. Earth and Water

The applicant will be required to obtain a clearing and grading permit and follow erosion and sediment control best management practices to prevent sediment impacts. Clearing and Grading review is requiring rainy season restrictions to reduce the potential for erosion and sediment transport into the stream. **See Section X for condition of approval regarding Rainy Season Restrictions.**

B. Animals

All in-stream and over-stream work activities must be conducted within the WDFW-approved construction window to minimize or avoid impacts to fish and salmonid species. **See Section X for condition of approval regarding WDFW Permit Approval.**

C. Plants

The proposal includes enhancing a 15-foot width of the stream buffer on both side of the creek with native tree and shrub plantings. The plantings will improve fish and wildlife habitat functions.

VII. Changes to Proposal Due to Staff Review

Land Use Review required the following changes to the proposal:

- Applicant provided clarification on the 100-year floodplain elevation on the subject site.
- Plans were revised to include details of the footbridge design.
- Plans were revised to remove all landscape walls installed within 25-feet from the OHWM of the creek.
- Conceptual mitigation plan was revised to include native planting enhancement on both the east and west sides of the stream (15-foot width), increasing the enhancement planting area from 260 SF to 2,030 SF.
- Pacific Rhododendron (not a riparian plant specie) was removed from the planting plan.
- The Conceptual Planting Plan was revised to provide on-center plant spacing consistent with the City's *Critical Areas Handbook*.
- Plans were revised to show a 4-foot wide trail to the proposed footbridge.
- Plans were revised to reduce the height of a segment of landscape wall encroaching into the 5-foot side yard structure setback along the south property line to a maximum height of 30-inches.

VIII. Decision Criteria

1. Consistency with LUC 20.25H.255 – Critical Areas Report – Decision criteria

A. General.

Except for the proposals described in subsection B of this section, the Director may approve, or approve with modifications, the proposed modification where the applicant demonstrates:

1) The modifications and performance standards included in the proposal lead to levels of protection of critical area functions and values at least as protective as application of the regulations and standards of this code;

Finding: The entire backyard area is within the stream buffer. The installation of landscape walls did not entail the removal of trees or shrubs. The proposal includes enhancing a 15-foot width of the stream buffer on both sides of the creek with native tree and shrub plantings to mitigate for the backyard improvements within the stream buffer. The plantings would provide for improved fish and wildlife habitat functions and levels of protection of functions over the application of code regulations and standards.

2) Adequate resources to ensure completion of any required mitigation and monitoring efforts;

Finding: The mitigation planting is required to be monitored for five (5) years. A maintenance surety is required prior to issuance of construction permits for an

amount equal to 20% of the estimated cost of planting, maintenance and monitoring for five years. A cost estimate for maintenance surety is required to be submitted with construction permits. **See Section X for condition of approval regarding Maintenance and Monitoring Surety.**

- 3) **The modifications and performance standards included in the proposal are not detrimental to the functions and values of critical area and critical area buffers off-site; and**

Finding: The applicant has demonstrated that the proposed footbridge would not result in adverse impacts to flood storage capacity or result in the alteration of peak flows, duration, or the volume of flows. The proposal would not be detrimental to the functions and values of off-site critical areas and buffers.

- 4) **The resulting development is compatible with other uses and development in the same land use district.**

Finding: The proposal does not alter the use of the backyard and it is compatible with surrounding residential uses and development in the same land use district.

B. Decision Criteria – Proposals to Reduce Regulated Critical Area Buffer.

The Director may approve, or approve with modifications, a proposal to reduce the regulated critical area buffer on a site where the applicant demonstrates:

- 1) **The proposal includes plans for restoration of degraded critical area or critical area buffer functions which demonstrate a net gain in overall critical area or critical area buffer functions;**

Finding: To mitigate for the proposed improvements within the stream buffer and to demonstrate a net gain in critical area buffer functions, the applicant has proposed to enhance the inner 15 feet of the stream buffer along both the east and west banks of the stream. The conceptual mitigation plan proposes native plant species and on-center spacing consistent with the City's *Critical Areas Handbook* planting template. However, the proposed planting excludes areas of existing native vegetation and then also subtracts for 7 native trees currently in the enhancement area. The total quantity of native tree and shrub plantings shall be based on calculating the on-center planting standards for the entire enhancement area. The planting plan may reduce the tree planting by one tree for every existing native, significant tree (trees over 8-inch diameter) in the enhancement area. The enhancement plantings shall be located around existing native vegetation and planted in clusters to mimic natural conditions. The objective of the enhancement planting is to establish a dense 15-foot-wide native plant buffer on both sides of the creek to protect critical area functions. **See Section X for a condition of approval regarding Mitigation Planting Plan.**

A final mitigation plan is required to be submitted and approved with a Clearing and Grading permit application. The plans shall specify plant species, sizes, quantities and spacing. **See Section X for a condition of approval regarding Final Mitigation Plan.**

- 2) **The proposal includes plans for restoration of degraded critical area or critical area buffer functions which demonstrate a net gain in the most important critical area or critical area buffer functions to the ecosystem in which they exist;**

Finding: The restoration planting will result in a net gain in biochemical, food web, and wildlife/fish habitat functions. The restoration planting is adjacent to the creek (15-foot width on each side of the creek), which will improve the most important critical area and critical area buffer function to the ecosystem.

- 3) **The proposal includes a net gain in stormwater quality function by the critical area buffer or by elements of the development proposal outside of the reduced regulated critical area buffer;**

Finding: By restoring the stream buffer with native plantings and reducing slope gradients, the proposal would reduce surface runoff reaching the stream resulting in a net gain in stormwater quality function.

- 4) **Adequate resources to ensure completion of any required restoration, mitigation and monitoring efforts;**

Finding: The mitigation planting is required to be monitored for five (5) years. A maintenance surety is required prior to issuance of construction permits for an amount equal to 20% of the estimated cost of planting, maintenance and monitoring for five years. A cost estimate for maintenance surety is required to be submitted with construction permits. **See Section X for condition of approval regarding Maintenance and Monitoring Surety.**

To ensure that the mitigation planting becomes well established within the 5-year monitoring/maintenance period, performance standards listed in the Conditions of Approval shall be addressed in annual monitoring reports. **See Section X for condition of approval regarding Final Mitigation Plan Performance Standards.**

The mitigation planting is required to be maintained and monitored for five years to ensure the plants successfully establish. Annual monitoring reports are required to be submitted to document the plants are meeting approved performance standards. **See Section X for condition of approval regarding Annual Maintenance and Monitoring Reports.**

- 5) The modifications and performance standards included in the proposal are not detrimental to the functions and values of critical area and critical area buffers off-site; and**

Finding: As conditioned, the modifications and performance standards included the proposal will not be detrimental to the functions and values of critical areas/critical area buffers off-site.

- 6) The resulting development is compatible with other uses and development in the same land use district. (Ord. 5680, 6-26-06, § 3)**

Finding: The proposal includes landscape improvements and construction of a footbridge. Neighbors up- and downstream of the property have similar landscape features such as walls and footbridges. Therefore, the resulting development is compatible with other uses and development in the same land use district.

2. Consistency with LUC 20.30P.140 – Critical Areas Land Use Permit – Decision criteria.

- A. The proposal obtains all other permits required by the Land Use Code;**

Finding: The applicant must obtain construction permits, a Clearing and Grading Permit and Building Permit for the footbridge, prior to beginning construction. **See Section X for condition of approval regarding Clearing and Grading Permit Required.**

- B. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;**

Finding: The footbridge has been designed so the concrete abutments are beyond the ordinary high water mark (OHWM) of the stream and the bottom bridge beam would be 1-foot above the OHWM of the stream to provide sufficient clearance so there are no adverse impacts to flood storage capacity, or alteration to peak flows, duration, or volume of flows.

To avoid water quality impacts from leaching of wood preservatives, the wood planks for the bridge decking shall be a non-toxic wood product approved for use in aquatic environments. **See Section X for condition of approval regarding Footbridge Decking Materials.**

The grading of the backyard was minimized to create a gentler slope for access and use of the backyard and resulted in a net zero cut and fill. However, to avoid impacts to the stream and stream buffer, all landscape walls and fill material that was placed within 25 feet of the OHWM of the creek shall be removed. **See Section X for condition of approval regarding Fill and Walls in Critical Area Buffer.**

There is an 18-inch Big-leaf Maple trees within 15 feet of the creek, the only existing native-specie tree on the west side of the creek. A segment of the landscape wall under the tree will be removed and the plans include a note that only hand tools will be used within the dripline of the tree to minimize root disturbance. Tree protection measures shall be included on the required Clearing and Grading permit. **See Section X for condition of approval regarding Tree Protection.**

C. The proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable, and ;

Finding: As discussed in Section III, the applicable performance standards of LUC 20.25H are being met.

D. The proposal will be served by adequate public facilities including street, fire protection, and utilities; and;

Finding: The existing residence is served by adequate public facilities and the proposed backyard improvements do not impact or affect the provision of public facilities.

E. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC Section 20.25H.210; and

Finding: The proposal includes a mitigation plan to restore the stream buffer, enhancing a 15-foot width of the stream buffer on both side of the creek with native tree and shrub plantings to mitigate for the backyard improvements within the stream buffer. The mitigation plan, as conditioned, is consistent with the requirements of LUC Section 20.25H.210. **See Section X for condition of approval regarding Final Mitigation Plan.**

F. The proposal complies with other applicable requirements of this code.

Finding: As discussed in this report, the proposal complies with all other applicable requirements of the Land Use Code.

IX. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, City Code and standard compliance reviews, the Director of the Development Services Department does hereby **approve with conditions** the proposal for backyard improvements within the stream buffer and construction of a footbridge.

Approval of this Critical Areas Land Use Permit does not constitute a permit for construction. Construction permits are required and all plans are subject to review for compliance with applicable City of Bellevue codes and standards.

Note- Expiration of Approval: In accordance with LUC 20.30P.150 a Critical Areas Land Use Permit automatically expires and is void if the applicant fails to file for a Construction Permit or other necessary development permits within one year of the effective date of the approval.

X. Conditions of Approval

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

<u>Applicable Ordinances</u>	<u>Contact Person</u>
Clearing and Grading Code- BCC 23.76	Tom McFarlane, 425-452-5207
Land Use Code- BCC 20.25H	Peter Rosen, 425-452-5210

The following conditions are imposed under the Bellevue City Code referenced:

- 1. Clearing and Grading Permit Required:** An application for a clearing and grading permit must be submitted and approved before construction can begin. Plans submitted as part of the permit application shall be consistent with the plans and activity permitted under this approval.

Authority: Land Use Code 20.30P.140
Clearing & Grading Code 23.76.035

Reviewer: Tom McFarlane, Development Services Department, Clearing & Grading Section

- 2. Rainy Season Restrictions:** Due to the proximity to the stream, no clearing and grading activity may occur during the rainy season, which is defined as October 1 through April 30 without written authorization of the Development Services Department. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

Authority: Bellevue City Code 23.76.093.A,
Reviewer: Tom McFarlane, Development Services Department, Clearing & Grading Section

- 3. Fill and Walls in Critical Area Buffer:** All fill and block walls placed within the 25-foot stream buffer must be removed. The area must then be regraded to previously existing grade.

Authority: Bellevue Land Use Code 20.25H.

Reviewer: Peter Rosen, Development Services Department,
Tom McFarlane, Development Services Department, Clearing & Grading
Section

- 4. Footbridge Decking Materials:** To avoid water quality impacts from leaching of wood preservatives, the wood planks for the bridge decking shall be a non-toxic wood product approved for use in aquatic environments.

Authority: Land Use Code 20.30P.140

Reviewer: Peter Rosen, Development Services Department

- 5. WDFW Permit Approval:** Permits required from the Washington State Department of Fish and Wildlife (WDFW) shall be obtained and submitted to the City prior to issuance of construction permits.

The applicant shall comply with the WDFW work window. Any deviation from the approved schedule must be approved by WDFW and submitted to the City.

Authority: Land Use Code 20.25E.055.C3

Reviewer: Peter Rosen, Development Services Department

- 6. Environmental Best Management Practices:** All use of pesticides, insecticides, herbicides and fertilizers be in accordance with in the City of Bellevue's "Environmental Best Management Practices" and approved for use adjacent to aquatic environments.

Authority: Land Use Code 20.25H.080

Reviewer: Peter Rosen, Development Services Department

- 7. Tree Protection:** The Clearing and Grading Permit plan submittal shall include tree protection measures and note that only hand tools will be used to remove the existing landscape wall segment within the dripline of the Big-leaf Maple tree to minimize root disturbance during construction activity.

Authority: Land Use Code 20.30P.140

Reviewer: Peter Rosen, Development Services Department

- 8. Mitigation Planting Plan:** The total quantity of native tree and shrub plantings shall be based on calculating the on-center planting standards for the entire enhancement area. The planting plan may reduce the tree planting by one tree for every existing native, significant tree (trees over 8-inch diameter) in the enhancement area. The enhancement plantings shall be located around existing native vegetation and planted in clusters to mimic natural conditions.

Authority: Land Use Code 20.25H.220

Reviewer: Peter Rosen, Development Services Department

- 9. Final Mitigation Plan:** A final mitigation plan is required to be submitted and approved with the clearing and grading permit application. The final mitigation plan shall show general planting locations, plant species, plant quantities and size of plant material.

Authority: Land Use Code 20.25H.220

Reviewer: Peter Rosen, Development Services Department

- 10. Final Mitigation Plan Performance Standards:** The final mitigation plan shall include performance standards to measure the successful establishment of the mitigation plantings. The following performance standards are acceptable and shall be included on the final mitigation plans:

Year 1 (from date of plant installation)

- 100% survival of all installed plants and/or replanting in following dormant season to reestablish 100%
- Maximum 10% coverage of invasive plants in planting area

Year 2 (from date of plant installation)

- At least 90% survival of all installed material
- Maximum 10% coverage of invasive plants in planting area

Year 3, 4, & 5 (from date of plant installation)

- At least 85% survival of all installed material
- Maximum 10% coverage of invasive plants in planting area

Authority: Land Use Code 20.25H.220

Reviewer: Peter Rosen, Development Services Department

- 11. Maintenance and Monitoring Surety:** A financial surety is required to be submitted to ensure the mitigation planting successfully establishes. A maintenance assurance device that is equal to 20% of the cost of plants, installation, and the cost of monitoring is required to be held for a period of five years from the date of successful installation. A cost estimate is required to be provided with the clearing and grading permit. The financial surety is required to be posted prior to clearing and grading permit issuance.

Release of the surety after the 5-year monitoring period is contingent upon a final inspection of the planting by Land Use Staff that finds the maintenance and monitoring plan was successful and the mitigation meets performance standards.

Authority: Land Use Code 20.25H.220

Reviewer: Peter Rosen, Development Services Department

12. Annual Maintenance and Monitoring Reports: The mitigation planting is required to be maintained and monitored for five years to ensure the plants successfully establish. Annual monitoring reports are required to be submitted to document the plants are meeting approved performance standards. Photos from selected photo points shall be included in the monitoring reports to document the planting. Land Use inspection is required by Land Use staff to end the plant monitoring period.

Reporting shall be submitted no later than December 31st of each monitoring year and shall include a site plan and photos from photo points established at the time of Land Use inspection. Reports shall be submitted to Peter Rosen or Heidi Bedwell by the above listed date and can be emailed to prosen@bellevuewa.gov or mailed directly to:

Environmental Planning Manager
Development Services Department
City of Bellevue
PO Box 90012
Bellevue, WA 98009-9012

Authority: Land Use Code 20.30P.140; 20.25H.220

Reviewer: Peter Rosen, Development Services Department

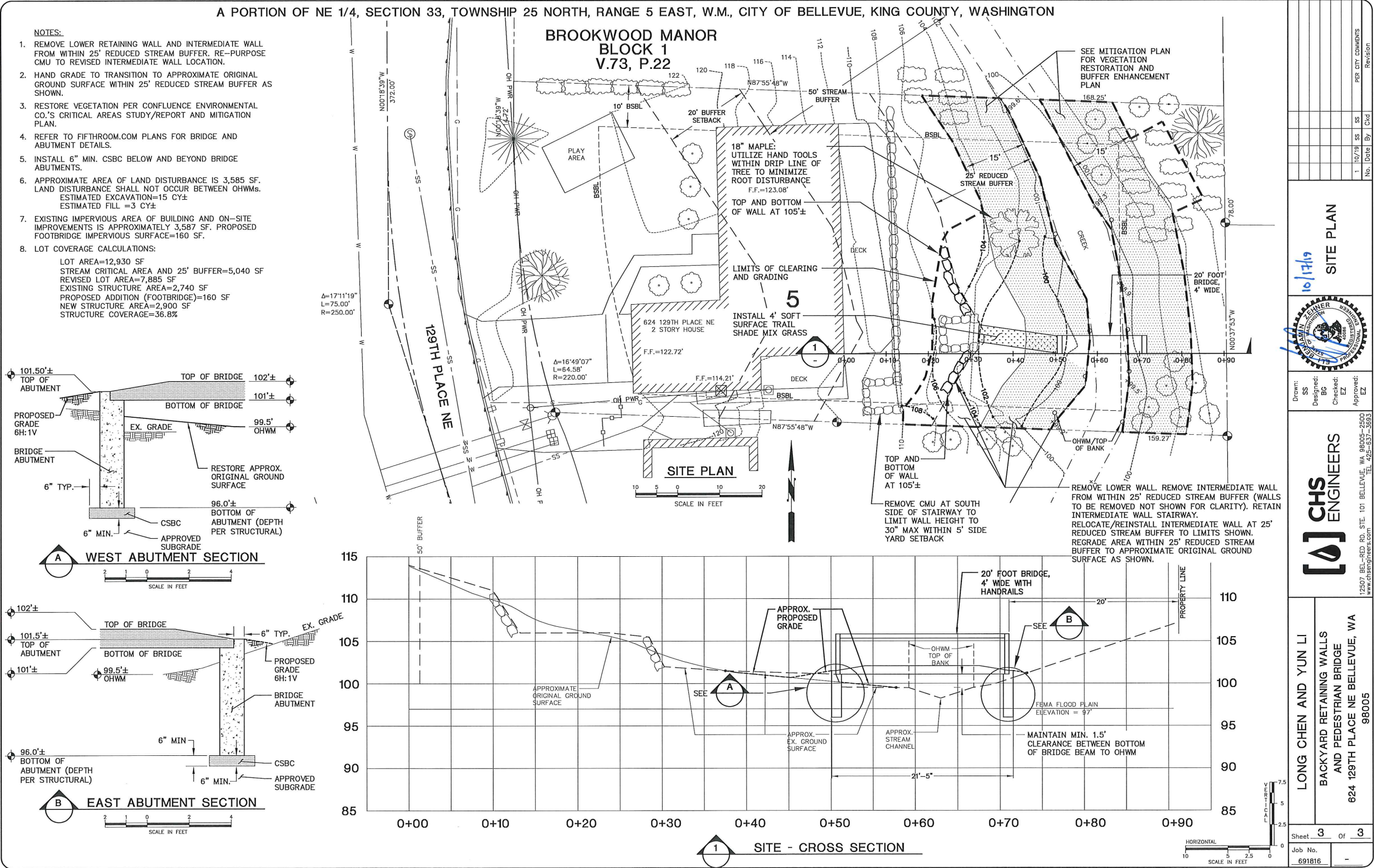


Figure 4. Existing Conditions (Post-Landscaping) with Stream Buffer and Structure Setback